

AMERICAN GROWERS INSURANCE COMPANY, )  
(1994 Raisins) )

AGBCA No. 2000-109-F

Appellant )

Representing the Appellant: )

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**DECISION OF THE BOARD OF CONTRACT APPEALS**

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**November 28, 2001**

**BEFORE HOURY, POLLACK, and WESTBROOK, Administrative Judges.**

**Opinion for the Board by Administrative Judge POLLACK.**

This appeal arises out of a 1994 Standard Reinsurance Agreement (SRA) between American Growers Insurance Company (Appellant) and the Federal Crop Insurance Corporation (FCIC). Under the SRA, American Growers sells and administers Multi-Peril Crop Insurance (MPCI) policies, which insurance is reinsured by the FCIC. The Risk Management Agency (RMA), an agency of the U. S. Department of Agriculture (USDA), administers and oversees the federal crop insurance program. Appellant filed a timely appeal to an August 24, 1999 decision of FCIC arising out of a compliance decision by the Director of Risk Compliance. More specifically, Appellant sought recovery of what Appellant characterized as the wrongful assessment of \$5,333 in alleged premium overstatements and \$733,534 in alleged indemnity overpayments on MPCI policies issued by it to various producers for the 1994 reinsurance year.

In the RMA determination challenged by Appellant, FCIC found that Appellant failed to follow FCIC procedures with respect to the adjustment of several insured's raisin claims, specifically dealing with whether the raisins could be reconditioned. The Board has jurisdiction to resolve this dispute pursuant to the regulation, 7 CFR 24.4(b) and 400.169.

After the appeal was docketed, the parties filed pleadings and engaged in discovery. During that same period, there were limited discussions as to settlement. The Board provided extensions to allow for discovery and attempt to facilitate the settlement. On February 22, 2001, the Board held a conference for purposes of setting a final schedule for completion of proceedings. In that conference, the Board was advised by counsel for the Appellant that an overall settlement had been reached between American Growers and FCIC and that such settlement included this appeal. Counsel for FCIC could not confirm the agreement at that time. Based on the probability of settlement, the Board advised the parties that no further action would be taken pending further clarification as to the settlement. By letter of May 23, 2001, counsel for Appellant provided the Board with a stipulation signed by the parties and a motion to dismiss by Appellant. The motion called for dismissal with prejudice.

**DECISION**

Based on the motion filed by Appellant, the appeal is dismissed with prejudice.

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**HOWARD A. POLLACK**  
Administrative Judge

**Concurring:**

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**EDWARD HOURY**  
Administrative Judge

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**ANNE W. WESTBROOK**  
Administrative Judge

**Issued at Washington, D.C.**  
**November 28, 2001**